

§ 156.313 OV-HD; OLD VILLAGE HISTORIC DISTRICT OVERLAY.

(A) *Purpose of district.* The town created a local historic district in conjunction with its general zoning ordinance adopted August 13, 1979. Administered by the Old Village Historic District Commission, the intent of the district is to:

- (1) To protect, preserve, and enhance the architecture of the Old Village;
- (2) To promote the economic and general welfare of the people of the Old Village;
- (3) To foster civic pride;
- (4) To encourage harmonious growth and development within the Old Village Historic District; and
- (5) To promote the use and preservation of the historic district for the education and welfare of the residents of the town.

(B) *Definition of boundaries.*

(1) The boundaries encompassed by the historic district zoning are described as: on the north beginning at the intersection of Whilden and Live Oak Streets and running generally southeasterly following the western side of Whilden Street, however, including the property on the east side of Whilden Street located at 440 Whilden Street know as St. Andrews Episcopal Church, and continuing on as Whilden Street becomes Royall Avenue to the common corporate municipal limit line of the town and the Town of Sullivan's Island, then running generally southwesterly to the town corporate municipal boundary line in Charleston Harbor, then generally northwesterly to a point at the centerline of the mouth of Shem Creek from the northern extended side property line of the residentially zoned lot at the foot of Haddrell Street, following the same generally southwesterly and extending east back to the intersection of Whilden and Live Oak Streets, including only the residentially zoned lots abutting Haddrell Street, Magwood Lane, Live Oak Street, and Church Street, saving and excepting therefrom the residential house lots on the south side of Shem Creek in the development known as The Boatyard.

(2) Within the boundaries of the locally designated historic district is a 30-block area listed on the National Register of Historic Places on March 30, 1973; the boundaries of which are as follows: on the north by Shem Creek; on the east by the western edge of Whilden Street and Royal Avenue (with the exception of the lot on the east side of the street containing the Mount Pleasant (St. Andrews) Episcopal Church); on the south by McCants Drive; and on the west by Charleston Harbor.

(C) *Permitted uses.*

(1) This is an “overlay” district. As such, permitted uses are determined by the “underlying” or primary zoning classification in effect.

(2) Within the R-2 District, for example, only those uses permitted therein are permitted in the OV- HD, subject to the additional requirements and standards of this section.

(3) Within the Old Village Historic District, short-term rental of any residentially-zoned parcel is prohibited. A short-term rental is: (a) the rental or lease of a residential dwelling unit for a duration of less than 28 consecutive days; or (b) the use of a residential dwelling unit in return for valuable consideration for a duration of less than 28 consecutive days.

(4) Within the Old Village Historic District, the use of any residentially-zoned parcel as a Bed & Breakfast is prohibited.

(D) Lot dimensional, frontage, coverage, yard and height requirements. Notwithstanding other provisions found elsewhere in this Chapter, these requirements shall apply to all properties located within the OVHD.

(1) *Minimum requirements.* The minimum requirements described in the underlying zoning district, shall apply to all residential lots; except as otherwise expressly provided herein.

(2) *Minimum lot frontage.* However, lots are required to have a minimum lot frontage on a public street of 60 feet.

(3) *Lot coverage.* No more than 40% of the lot may be covered by impervious surfaces as defined in § 156.007.

(4) *Yard requirements.* For properties located within the Old Village Historic District, setback distances shall be determined during the Certificate of Appropriateness review process, with consideration of existing conditions and setbacks of adjacent lots. Consideration should be given to the established pattern on the block and adjacent lots with respect to the overall character of the streetscape and district.

(5) *Accessory building height limitation.* The height of accessory structures buildings, including accessory dwelling units, shall be limited to a maximum height of 20 feet and no more than one-and- half (1 ½) stories, and shall be sited to the rear of the primary structure.

(E) Additional development requirements.

(1) *Construction on public property.*

(a) The Old Village Historic District Commission shall not approve any porches, steps, posts, fences, walks, or other appurtenances extending over, on, or within a

public sidewalk, alleyway, or street right-of-way, unless the particular item is necessary for the authentic restoration or maintenance of the particular project, provided; however, that the preceding shall not apply to on- street parking located in the public right-of-way, and unless such proposed items including the on- street parking, will not impede pedestrian or vehicular traffic or constitute a public safety hazard.

(b) Any of the aforesaid items restored or maintained on, over, or within a public sidewalk or public alley area under the authority hereof shall be the responsibility of the owner.

(c) The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the town harmless against any and all liability, cost, damage, or expense suffered or sustained by the town, as a result of, or growing out of, the restoration, reconstruction or maintenance thereof.

(2) Maintenance and repair.

(a) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District that does not involve a change in design, material, color, or outer appearance thereof.

(b) Nor shall it be construed to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature that the Building Official or similar official shall certify is required by the public safety because of an unsafe or dangerous condition.

(3) Building area ratio (BAR) requirement.

(a) New construction of residential dwellings, including additions thereto and their accessory use buildings, shall be subject to a building area ratio (BAR).

(b) The BAR shall be calculated by ascertaining the total of number of square feet of building areas taken on a horizontal plane, specifically including any cantilevered areas, of the principal building and all accessory buildings (except those less than 144 square feet in area), exclusive of uncovered porches (decks), terraces, and steps. Building area in two-story rooms (i.e., cathedral ceilings) shall be counted twice. The building area in a crawl space shall not be counted. Garage area shall be counted, regardless of whether it is located underneath a house or in an accessory building.

(c) The BAR shall not comprise more than 50% of the lot size. However, a minimum house size of 2,500 square feet shall be allowed regardless of lot size, provided that 40% lot coverage is not exceeded. The maximum building area, including accessory structures, shall be 5,500 square feet regardless of lot size.

(d) At least 10% of the building must be comprised of porches.

(e) Exceptions.

1. The BAR shall not apply to garage space located under a house when the house is required to be elevated a minimum of eight feet above finished grade in order to comply with FEMA regulations.

2. The BAR shall not apply to basement space where a sub-grade basement can be accommodated without the use of fill.

3. The BAR shall not apply to alterations that do not change the massing of a structure. Examples include but are not limited to: finishing space in an attic or under an elevated structure.

(4) *Historic buildings.* Historic buildings located on historic properties, as defined herein, may be considered conforming with respect to any height, setback, yard, area, or other dimension found by the Old Village Historic District Commission to be of historic significance. In this regard, these existing conditions may supersede any conflicting standard set forth in the zoning district in which the building is located, and may be applied to the building and the site in making future determinations of conformity as to the existing building or any changes consistent with an approved Certificate of Appropriateness.

(5) *Parking requirements.* Notwithstanding other provisions found elsewhere in this Chapter, these parking requirements shall apply to all residential use properties located within the OVHD.

(a) A minimum of two off street parking spaces is required per residence.

(b) Additional spaces for homes over 2,500 square feet of gross floor area (GFA) are required at the rate of 1 space per every 1,000 square feet of GFA over 2,500 square feet of GFA.

(c) On-street parking shall be limited to one space per residential lot subject to approvals from SCDOT and OVHDC.

(d)

(Ord. 06052, passed 6-21-06; Am. Ord. 06088, passed 1-9-07; Am. Ord. 08037, passed 7-8-08; Am. Ord. 10080, passed 1-11-11; Am. Ord. 12075, passed 11-13-12; Am. Ord. 13002, passed 2-12-13; Am. Ord. 13064, passed 11-12-13; Am. Ord. 14047, passed 8-12-14; Am. Ord. 17024, passed June 13, 2017; Am. Ord. 17025, passed June 13, 2017)

OLD VILLAGE HISTORIC DISTRICT COMMISSION

§ 156.430 ORGANIZATION.

(A) *Creation.*

(B) Pursuant to S.C. Code Title 6, Chapter 29, as amended, the Old Village Historic District Commission, composed of five members appointed by the Mayor and Town Council, was established by Ordinance No. 06052, passed June 21, 2006, having replaced and superseded the previous Town Appearance Commission, which had been established by ordinance passed May 5, 1986.

(C) It is the declared policy of the Town Council that it will consider and approve only those persons who:

(1) Reside in the district and shall have been residents of the town for a period of at least two years prior to appointment; provided, however, that one (1) of the current five seats shall not be required to reside within the historic district.

(2) Have demonstrated their general knowledge of the community and concern for the welfare of the total community and its citizens;

(D) Members shall have a demonstrated interest and knowledge of the historic district.

(E) To the extent that such is available in the community, members shall be knowledgeable in architecture, architectural history, planning, archeology, history, building arts, and any other areas of knowledge that would benefit the mission of the Commission and community.

(F) Members shall serve without compensation except for reimbursement for authorized expenses attendant to the performance of their duties.

(G) To the extent that such is available in the district, Town Council shall seek to fill at least one seat with a professional in architectural history, preservation, history, archaeology, building arts, or any other area of knowledge that would benefit the mission of the Commission and meet the state- certified-local-government-membership requirement.

(H) Town Council shall make every reasonable effort to fill at least one seat with a professional as described above. In the event that a professional is not available or willing to serve, Town Council shall fill the seat at its discretion, if written documentation showing that it made every attempt to seat a professional is provided for the Commission's record.

(B) *Term of office.*

(E) The term of office for each member appointed shall be two years, except members holding Seats 3, 4 and 5 for the initial term as stated herein.

(F) Any person who has served as a member of Commission for two consecutive terms shall not be eligible for reappointment for at least two years.

(G) A partial term of 12 months or more shall constitute one term.

(H) All terms shall expire on January 1 of the calendar year in which they fall.

(I) In order that terms may be staggered, the following initial terms according to seat numbers shall apply: Seats 1 and 2 shall be two years; Seats 3, 4 and 5 shall be one year.

(J) Members shall assume their duties at the first regular meeting after their appointment.

(K) Each member shall, however, serve until his or her successor is appointed and installed.

(L) The Town Council shall act promptly to make appointments in order to avoid vacant seats, the continued service of members with expired terms, or the clustering of more than three term expirations in a given year.

(M) While serving on the Board, none of the members shall hold any other public office or position in the municipality or county.

(6) Vacancy, absence, and removal.

- Any vacancy, whether created by removal for cause or by a member's resignation, shall be filled for the unexpired term as soon as may reasonably be accomplished by the Mayor and Town Council in the same manner as the original appointment.

- Any member of the Commission may be removed by the Mayor, upon confirmation of the Town Council, for repeated failure to attend meetings of the Commission or for any other just cause, including neglect of duty or misconduct in office.

- Attendance at less than 75% annually of called meetings and/or more than one unexcused absence per year shall also constitute just cause.

- Excused absences include medical or family emergencies or unavoidable business or personal conflicts. Each member anticipating an excused absence shall notify the Chairperson and Secretary at least two full working days prior to the meeting that will be missed, and shall state the reason for the absence. Emergency situations that arise within the 48-hour period can be considered excused by the Chairperson.

(F) If removal for cause, except due to attendance, appears eminent, the Chairperson shall contact the member and ascertain whether removal should be considered by the Mayor and Town Council. The Chairperson shall then make a recommendation to Council prior to Council's acting on the matter.

(G) If removal for cause due to attendance appears imminent, the staff person appointed to represent the Commission shall contact the Planning Director, who shall report the information to the Town Administrator. The Town Administrator shall then report the information to Council for its consideration on the matter.

(5) Chairperson; Secretary; rules of procedure.

(a) At the first regular meeting of each calendar year, a Chairman and Vice-Chairman shall be elected by secret ballot.

(b) A staff member of the Town Planning Department shall serve as Secretary of the Commission.

(c) The Commission shall adopt rules of procedure at the first meeting of each calendar year.

(d) The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question.

(6) Meetings and quorum.

(a) Meetings of the Commission shall be held at the call of the Chairperson, and at such other times as the Commission may determine.

(b) Three members of the Commission shall constitute a quorum for conducting business, including members who have recused themselves for conflict of interest.

(c) Public notice shall be given for all meetings of the Commission and all meetings of the Commission shall be open to the public.

(7) *Professional advisor.* The Commission may consult with an architect, architectural historian, a person with an expertise in the building arts, or any other professional on an as-needed basis to receive professional advice. This advisor shall be appointed by Town Council at the request of the Commission.

(8) *Liability of members.*

(a) Any member of the Old Village Historic District Commission acting within the powers granted by ordinance is relieved from all personal liability for any damage and shall be held harmless by the town.

(2) Any suit brought against any member of the Commission shall be defended by a legal representative furnished by the town until the termination of the procedure.

(Ord. 06052, passed 6-21-06; Am. Ord. 09041, passed 7-14-09; Am. Ord. 09053, passed 8-12-09; Am.

Ord. 10080, passed 1-11-11; Am. Ord. 17026, passed 6-16-17)

§ 156.431 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. A change in the external architectural features of any structure in the historic district.

CERTIFICATE OF APPROPRIATENESS (COA). Document certifying approval that the proposed actions by an applicant are found to be acceptable in terms of design criteria relating to the individual property.

DEMOLITION BY NEGLECT. Abandonment or lack of maintenance that allows a structure in the historic district to fall into a serious state disrepair so as to result in the deterioration of any exterior architectural feature that would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole, or the life and character of the property itself. Examples of such deterioration include, but are not limited to:

(6) Deterioration of exterior walls or other vertical supports;

(7) Deterioration of roofs or other horizontal members;

(8) Deterioration of exterior chimneys;

(9) Deterioration of exterior materials;

(10) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors; or

(11) Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.

HISTORIC PROPERTY. A building, structure or site that has been designated by the Commission, and approved by Town Council, as a contributing property within the historic district.

REHABILITATION. The process of returning a property to a state of utility, through repair or alteration, that makes possible an efficient contemporary use, while preserving those portions and features of the property significant to its historic, architectural, and cultural values.

SUBSTANTIAL HARDSHIP. Hardship of a financial or economic nature, which makes it impossible or unnecessarily difficult to maintain the property in accordance with the design guidelines.

(Ord. 06052, passed 6-21-06; Am. Ord. 10080, passed 1-11-11)

§ 156.432 POWERS AND DUTIES.

(A) *Survey and inventory.*

(1) Pursuant to the town's historic district certified local government (CLG) status, the Commission may request funding for and authorize a survey and inventory of properties, or update of the former, provided that such survey or update is conducted in accordance with professional standards under qualified supervision; and is coordinated with and complementary to those standards of the State Historic Preservation Office; and follows procedures described in the *South Carolina State Historic Preservation Program: Survey Manual*.

(2) The Commission shall maintain a local survey and inventory of buildings, structures, and sites. These records shall be available to the public.

(3) In addition to maintaining CLG status, the survey and inventory may be used to record the historic architecture of the town; to study a given area in order to

evaluate eligibility for the National Register of Historic Places or district status; or to monitor change to the architectural fabric of Mount Pleasant.

(4) In 2010, a comprehensive survey of the district entitled “A Historic Resources Survey of the Old Village Historic District” was conducted by Brockington and Associates, identifying all structures in the district. This shall be the survey referenced for any of the uses listed above.

(B) Designation of historic properties.

(1) The Commission shall review the local survey and inventory and make recommendations for historic designation to the Town Council, based on any of the following criteria. A property, be it a structure or site, may be designated historic if it was built prior to 1936, and:

(a) Has inherent character, interest, or value as part of the development or heritage of the community, state, or nation; or

(b) Is the site of an event significant in history; or

(c) Has an association with a person or persons who contributed significantly to the culture and development of the community, state, or nation; or

(d) Exemplifies the cultural, political, economic, social, ethnic, architectural, archeological or historic heritage of the community, state, or nation; or

(e) Embodies distinguishing characteristics of a type, style, period, or specimen in architecture or engineering; or

(f) Is the work of a designer whose work has influenced significantly the development of the community, state, or nation; or

(g) Contains elements of design, detail, materials, or craftsmanship that represent a significant innovation; or

(h) Is part of or related to a distinctive element of community planning; or

(i) Represents an established and familiar visual feature of the neighborhood, waterfront or community; or

(j) Represents an archeological site, be it a prominent land feature with significance to the development of the Old Village, a prehistory site, or other

culturally significant place important to the history of Mount Pleasant, the Old Village or the state.

(2) Ordinarily structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance since 1935 shall not be considered eligible for historic designation. However, such properties may be recommended if they fall within the following categories:

(a) A building or structure removed from its original location, but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(b) A reconstructed building, when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(c) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or

(d) A property achieving significance since 1935 if it is of exceptional importance.

(3) Owners of properties recommended for designation shall be provided notice and an opportunity for a hearing before the Town Council prior to a final decision. Specifically, the owners shall be notified, in writing, 30 days before the Town Council's review of the recommendation, and may appear before Town Council to support or oppose the proposed historic designation.

(4) Upon approval of the Town Council, designated districts, district extensions, buildings, structures and sites shall be preserved and protected under the regulations of this chapter, or the design guidelines referenced herein.

(5) Property owners who wish to appeal the decision of the Town Council may do so before the courts of the state, as provided in South Carolina Code of Laws.

(C) Creation of new historic districts and the reduction or elimination of existing historic districts.

(1) The Commission shall also have the power to recommend to the Town Council the creation of new historic districts, and the reduction or elimination of existing historic districts.

(2) Owners of properties to be included in new or expanded districts or eliminated properties shall be notified, in writing, 30 days prior to consideration by the Town Council. Owners may appear before the Town Council to voice their opinion on the designation, and may object to the decision of the Town Council to designate their property by filing suit before the courts of the state, as provided in the South Carolina Code of Laws.

(3) Upon approval by the Town Council, newly created historic districts shall be treated as new use districts, with regulations and guidelines appropriate for that district and area of the town.

(D) Nominations to the National Register of Historic Places.

(1) The Commission may nominate buildings, structures, sites, objects, or districts to the National Register of Historic Places, according to the criteria and registration requirements set forth by the National Park Service in overseeing the National Register of Historic Places.

(2) The Commission shall have first review and evaluation of all proposed nominations to the National Register of Historic Places within its jurisdiction, including any that may have been submitted to the State Historic Preservation Office. Owners of properties to be reviewed by the Commission shall be notified, in writing, 30 days prior to the Commission's review.

(3) The Commission shall forward all reviewed nominations to the State Historic Preservation Office, with recommendations for consideration by the State Board of Review.

(4) The Commission shall not have the authority to nominate properties directly to the National Register of Historic Places; only the State Board of Review and the State Historic Preservation Office shall have this final review authority.

(E) Identification of historic properties and districts.

(1) The Commission shall maintain a map illustrating all historic properties as defined herein, which may be amended from time to time.

(2) All locally designated historic districts shall be clearly shown on the town zoning map.

(F) Design review.

(1) It shall be the duty of the Commission to review applications regarding moving, demolition, new construction, exterior alteration, and building additions in the historic district.

(2) This review shall follow established criteria in accordance with approved design guidelines.

(G) Design guidelines.

(1) In order to accomplish the design review as provided above, the Commission shall adopt design guidelines.

(2) Such design guidelines, and any subsequent amendments thereto, shall be published and made available to the public.

(H) Demolition by neglect enforcement; petition and hearing.

(1) All charges of demolition by neglect must be initiated by a petition.

(2) Petitions for a finding of demolition by neglect must include: a written description and photographic evidence of said neglect; a summary of the detrimental effect upon the character of the historic district as a whole or the life and character of the property itself; and signatures of five residents or property owners who are bringing the petition. Residents or property owners residing at the same address shall count only once toward the total number of signatures.

(3) Between 30 and 45 days prior to hearing a petition to find that a building is being demolished by means of neglect, the Commission shall notify the owner of the property in question of the time, date and place that the petition will be heard.

(4) If, pursuant to the hearing, the Commission finds that a building within the limits of the historic district is being demolished by means of neglect, the Commission shall contact the property owner to instruct him or her to bring the building into compliance with the current design guidelines and provisions of this subchapter.

(5) If the property owner does not respond, apply for a Certificate of Appropriateness, or initiate repair not requiring a COA within 90 days of the Commission's issuance of notification, the Commission shall report to the Zoning Administrator that the building is in violation of the design guidelines, providing their findings for such violation(s). The Zoning Administrator may then take appropriate enforcement action.

(6) If the property owner wishes to make a claim of substantial economic hardship, the property owner must submit evidence describing the circumstances of hardship. Evidence may include, but is not be limited to:

(a) Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control;

(b) Financial resources of the owner and/or parties in interest (such as tax returns for the past two years);

(c) Cost of repairs;

(d) Assessed value of the land and improvements;

(e) Real estate taxes for the past two years;

(f) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance;

(g) Annual debt service, if any, for previous two years;

(h) Any listing of the property for sale or rent, price asked, and offers received, if any;

(i) Annual gross income from the property for the previous two years;

(j) Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed; and

(k) Annual cash flow, if any, for the previous two years.

(7) In the event that the Commission finds substantial economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include loans or grants from public, private, or nonprofit sources, acquisition by purchase or eminent domain, or relaxation of the provisions of this article sufficient to mitigate substantial economic hardship.

(8) Nothing in this section shall diminish the town's power to declare a building unsafe or in violation of the minimum housing code.

(l) *Demolition.* The Commission shall review all requests for demolition based on the following criteria:

(1) *Historic buildings and structures.* Historic properties comprised of buildings and structures designated through nomination by inclusion in a survey or survey update, or by individual nomination,

shall be afforded the highest degree of preservation. Demolition may only be allowed if one or more of the following conditions are met:

(a) Where the public safety and welfare requires the removal of the building; or

(b) If the building or structure cannot be economically rehabilitated on the site to provide a reasonable income or residential environment compared to other structures in the general area; or

(c) A finding of substantial economic hardship is established by the Commission.

(2) *Buildings and structures lacking historic designation status.* In the case of buildings or structures lacking historic property designation, the Commission may, at its discretion, first make a determination that the building or structure is worthy of individual designation as an historic property pursuant to the provisions of § 156.432(B). If no such determination is made, demolition may then be allowed if one or more of the following conditions are met:

(a) Where the public safety and welfare requires the removal of the building; or

(b) The structure cannot be economically rehabilitated on the site to provide a reasonable income or residential environment compared to other structures in the general area; or

(c) A finding of substantial economic hardship is established by the Commission; or

(d) Where the proposed new development is more compatible with the surrounding area, considering such factors as location and exterior design.

(3) *Accessory buildings and structures.* In the case of accessory buildings and structures, demolition shall be allowed if one of the following conditions is met:

- (a) Where the building or structure is determined not to have any historical significance; or
- (b) Where the public safety and welfare requires the removal of the building or structure.

(4) The Commission may postpone the issuance of a demolition permit for 90 days in order to find an alternative to the demolition, or to find an entity willing to save the building or salvage architectural materials.

(5) Where demolition requests were granted as a result of new construction plans, the permit for demolition shall not be issued until new construction plans have been approved by the Commission and submitted for a building permit.

(6) During demolition, nearby sites and structures shall be protected, and after demolition, the site shall be cleared and cleaned.

(Ord. 06052, passed 6-21-06; Am. Ord. 10080, passed 1-11-11)

§ 156.433 PROCEDURES.

(A) Certificate of Appropriateness required.

(1) A Certificate of Appropriateness (COA) is required prior to partial or total demolition; demolition by neglect; exterior alteration, or addition; or new construction within the district. A COA is also required for the moving of any building into, out of, or within the district.

(2) A building permit shall not be issued for work in the historic district without a COA for the same work; any building permit not issued in conformance with this subchapter shall be considered void.

(3) The COA shall be a standardized form signed by the Chairperson, Vice-Chairperson, or Secretary of the Commission. The COA shall state the specific exterior changes that will result from the proposed work for which the application has been made, and shall state that those changes are approved by the Commission or Secretary in the case of minor work.

(4) The COA shall be valid for a period of two years from the date of approval by the Commission, and thereafter for the time prescribed by § 156.049, Vested Rights, of this chapter.

(a) At any time during the two-year period, the applicant may be granted a building permit from the Town Building Official.

(b) Should the COA expire or lapse pursuant to the provisions of § 156.049, a building permit shall not be issued until the applicant has resubmitted all required materials for approval by the Commission.

(B) Preliminary request.

(1) Prior to final approval for a COA, applicants may, but are not required to, request a preliminary approval. Preliminary approvals may be appropriate for new construction or complex or large scale projects, or projects involving major work to historic properties.

(2) Preliminary applications do not require the same level of detail as a COA application, and are designed to establish the intent and scope of the proposed project and to review any plans provided. The Commission may provide the applicant with comments regarding the request and any items that need to be addressed prior to a submittal for final COA approval.

(C) Application requirements.

(1) Prior to acceptance of an application for a COA, a pre-application meeting is required with Department of Planning and Development staff.

(2) The application for the COA must be complete and signed by the owner of the property to which it applies.

(3) Complete applications must be filed with the Commission Secretary two calendar weeks prior to the meeting at which it will be heard.

(4) A complete major work application shall consist of at least the following, as applicable:

(a) An Old Village Historic District COA application form completed legibly in ink;

(b) A thorough written description of work proposed; description of all materials to be used, including samples if requested; and description of all exterior changes that will result from proposed work;

(c) Photographs (clear color photographic prints or printed color versions of clear digital images at least 3" by 5" in size) of existing conditions and of surrounding properties and streetscapes, as appropriate;

(d) An accurate site plan showing existing conditions and the location of proposed additions, demolition, new construction, or hardscaping, if any such work is included in the application; and

(e) Accurate drawings of each affected elevation depicting proposed work with sufficient detail to show the architectural design of the building and the proposed work.

(D) Minor work reviewed by staff.

(1) Minor work projects may be reviewed and approved or denied by appropriate staff. A list of work items designated by the Commission as minor work is available from the Commission Secretary. The list may be changed or updated by a majority of the Commission as necessary. An application consisting entirely of minor work may be reviewed by the Commission Secretary, or designee. The Commission Secretary may approve applications that meet the design guidelines. The Commission Secretary shall not review incomplete applications.

(2) The Commission Secretary, or designee, shall review all minor work applications within ten days of receipt of a complete application.

(3) At each regularly scheduled meeting, the Commission Secretary shall provide a report of all staff level approvals granted within the month.

(D) Notification of COA hearing. At least seven days prior to hearing an application for a COA, the Commission shall advertise the hearing by posting a sign at the property that is the subject of the hearing. Review of minor work applications by the Commission Secretary shall not require such advertisement.

(E) Approval or denial.

(1) Review of COA application.

(a) Approval or denial of COA applications shall be based upon the specific criteria stated in the ordinance provisions or design review guidelines, as applicable.

(b) The Commission, or Secretary in the case of minor work, shall not consider:

1. The use of the building;
2. The interior of the building;
3. Landscaping; or
4. A building feature where the overall feature or less than 25% of the feature is not identifiable as a whole from public right-of-ways in any season. The harbor is considered a public right- of-way, as are public streets and alleys.

(c) The Commission, or Secretary in the case of minor work, shall not make requirements except to prevent developments that are not in harmony with the prevailing character of the streetscape or the district in general, or are obviously incongruous with the character, integrity or style of a building or site.

(d) The Commission shall take final action upon a complete and fully documented application for a COA within a reasonable amount of time.

(2) *Approval of COA application.* The Commission shall provide the COA and draft minutes of the hearing of the application to the applicant within ten days of approval of plans.

(3) *Denial of COA application.*

(a) A COA application shall be denied if the demolition or partial demolition; alterations and/or additions to existing structures; or erection of new structures are considered in violation of specific criteria stated in the design review guidelines for the historic district.

(b) Reasons for denial of an application shall be made evident in the motion to deny the COA. The motion shall cite the exact section(s) that are pertinent violations of the ordinance or design review guidelines. In the case of staff denial, staff shall provide a written explanation citing the exact section(s) that are considered in violation of specific criteria stated in the ordinance or design review guidelines for the historic district.

(c) The Commission shall provide the draft minutes of the hearing of the application to the applicant within ten working days of the denial of the application.

(d) If a COA application is denied, a new application affecting the same property may be submitted only if substantial change is made in the plans for the proposed work.

(G) *Rehearing.* Rehearings may be granted according to the criteria outlined in the Commission bylaws.

(H) *Appeal of Commission's decision.* Any aggrieved party may appeal a decision of the Commission to the Courts of South Carolina pursuant to the S.C. Code §§ 6-29-900 *et seq.*

(I) *Appeal of administrative decision.*

(1) Any person aggrieved (or any officer, department, board or bureau of the local government) may appeal to the Old Village Historic District Commission from actions of the Zoning Administrator, or other administrative official, in matters within the jurisdiction of the board pursuant to the S.C. Code §§ 6-29-880 and 6-29-890.

(2) The appeal must be filed within 30 days after the affected party receives actual notice of the decision, by filing with the officer from whom the appeal is taken and with the Commission notice of appeal specifying the grounds of the appeal.

(J) *Substantial economic hardship exemption.*

(1) A property owner may apply for an exemption based on the substantial hardship of maintaining the property according to the design guidelines. Substantial hardship shall be considered by the Commission where one or more of the following unusual and compelling circumstances exist:

(a) The property cannot reasonably be maintained in the manner dictated by the design guidelines due to economic constraints;

(b) There are no other reasonable means of saving the property from deterioration or collapse;
or

(c) The property is owned by a nonprofit organization and it is not feasible, financially or physically, to achieve the charitable purposes of the organization while maintaining the property appropriately.

(2) If the property owner wishes to make a claim of substantial economic hardship (as defined herein) owing to the effects of this subchapter, the property owner must submit evidence describing the circumstances of hardship; including but not be limited to:

(a) Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control;

(b) Financial resources of the owner and/or parties in interest;

(c) Cost of repairs;

(d) Assessed value of the land and improvements;

(e) Real estate taxes for the past two years;

(f) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance;

(g) Annual debt service, if any, for previous two years;

(h) Any listing of the property for sale or rent, price asked, and offers received, if any;

(i) Annual gross income from the property for the previous two years (if the property is income-producing);

(j) Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed (if the property is income-producing); and

(k) Annual cash flow, if any, for the previous two years (if the property is income-producing).

(3) In the event of a finding of substantial economic hardship in meeting the guidelines, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include loans or grants from public, private, or nonprofit sources, acquisition by purchase or eminent domain, or relaxation of the provisions of this subchapter sufficient to mitigate substantial economic hardship.

(K) *Requirements of municipal and public utilities.* The town and all public utility companies shall be required to go before the Commission in accordance with §§ 156.313, 156.430 through 156.433, and the bylaws, prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations (excluding traffic-control devices), lighting, walls, fences, structures and buildings on property, easements or widening or constricting of streets owned or franchised by the town or public utility companies.

(L) *Exceptions following a disaster or in a state of emergency.*

(1) In the event of a natural disaster or when state of emergency is declared, the Commission or Commission staff may authorize temporary disaster-related repairs in order to weatherproof or stabilize a damaged building/structure (waiver shall not relieve the applicant/property owner of making permanent repairs that meet the established guidelines).

(2) The immediate restoration or maintenance of any existing aboveground utility structure is hereby authorized as long as repair results in no exterior change from the appearance before the disaster or state of emergency.

(3) The Commission may waive all application deadline and notification requirements pertaining to disaster-related repairs.

(Ord. 06052, passed 6-21-06; Am. Ord. 09041, passed 7-14-09; Am. Ord. 10080, passed 1-11-11; Am. Ord. 14047, passed 8-12-14)